IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 20TH SEPTEMBER 2007 / 29TH BHADRA 1929

Bail Appl..No. 5667 of 2007()

CRIME NO. 557/07 OF PALARIVATTOM POLICE STATION

PETITIONER/ACCUSED 2

VINOD,S/O.VIJAYAN, AGED 22 YEARS,
PARAPURATH HOUSE,P.O.KUZHUR, THRISSUR DIST.

BY ADV. SRI.M.H.HANIL KUMAR

RESPONDENTS: COMPLAINANT/STATE

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1. SUB INSPECTOR OF POLICE,
PALARIVATTOM POLICE STATION,
ERNAKULAM DIST, REPRESENTED BY THE
PUBLIC PROSECUTOR,HIGH COURT OF KERALA
ERNAKULAM, COCHIN 682031.

2. STATE OF KERALA,REPRESENTED BY THE
PUBLIC PROSECUTOR,HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 20/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 5667 of 2007

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Dated this the 20th day of September, 2007

O R D E R

Application for anticipatory bail. The petitioner is the second accused. He was allegedly an employee of a travel agency run by the first accused. The other accused are the close relatives - wife and brother-in-law of the first accused. The crux of the allegations against the accused persons is that the defacto complainant and some others, who had seen an advertisement, were induced to go to the establishment of the first accused and part with an amount of Rs.35,000/- each on the promise that employment VISA will be arranged for them. Though money was paid, no employment VISA was arranged. The name of the firm was subsequently changed. The defacto complainant and others who paid the amounts were left in the lurch. The defacto complainant had wanted to contact the first accused. He was not available. The petitioner was available. He told him that the first accused has gone abroad to make arrangements. Ultimately, the petitioner told the defacto complainant that he is helpless and the first accused is not seen at all. The crime has been

registered for offences punishable under Sections 406, 420 r/w. 34 I.P.C. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. It is true that the petitioner was provided employment in the shop of the first accused. The petitioner is also as much aggrieved as the defacto complainant. The petitioner had paid an amount of Rs.15,000/- to the first accused. He was promised employment. VISA was not forthcoming. In the mean time, the petitioner was asked to work in the office of the first accused. That is how he happens to be present at the establishment. He has no culpable or contumacious role. The petitioner does not deserve to endure the trauma of arrest and detention. Subject to any appropriate condition, the petitioner may be granted anticipatory bail, it is prayed.

3. The learned Prosecutor does not oppose the application. But the learned Prosecutor hastens to observe that such stand is being taken in the nature of the plea raised by the petitioner that he was a helpless employee of the first accused. Grant of bail to this petitioner may not be reckoned as an indication that the State has no objection against grant of anticipatory bail to the other accused. This Court or the courts below may not later reckon the non-opposition to this petition as the attitude of the Prosecutor

to the crime, submits the learned Prosecutor.

4. I am satisfied, in the peculiar facts and circumstances of this case and in the light of the averments made in the petition and the submissions made at the bar, that the petitioner herein can be granted anticipatory bail, subject to appropriate conditions, which shall ensure the interests of a fair, efficient and expeditious investigation.

5. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioner shall surrender before the learned Magistrate on 27.9.2007 at 11 a.m. The learned Magistrate shall release the petitioner on regular bail on condition that he executes a bond for Rs.25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 28.9.2007 and 29.9.2007 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of one month and subsequently as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioner does not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 27.9.07 and the police shall be at liberty thereafter to arrest the petitioner and deal with him in accordance with law.

(d) If the petitioner were arrested prior to his surrender on 27.9.2007 as directed in clause (1) above, he shall be released on bail on his executing a bond for Rs.25,000/- without any surety undertaking to appear before the learned Magistrate on 27.9.2007.

(R. BASANT)
Judge

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